Supreme Court, U.S.
FILED

10-21 JUN 28 2010

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No. _____

In the Supreme Court of the United States

KEVIN H. MCKENNA *(Pro-Se)*

Petitioner,

v.

NESTLE PURINA PETCARE COMPANY

Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

APPENDIX

Kevin H. McKenna
Petitioner – Pro-Se
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May 27, 2010

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United States District Court,
Southern District of Ohio, Eastern Division.
UNPUBLISHED

KEVIN H. MCKENNA,

Plaintiff,

v.

NESTLE PURINA PETCARE CO.

Defendant.

Case No. 2:08 cv 253.

March 24, 2009.

OPINION AND ORDER

ALGENON L. MARBLEY, District Judge.

I. INTRODUCTION

This matter is before the Court on the Defendant Nestle Purina Petcare Co.'s ("Nestle") Motion to Dismiss and Request for Attorney Fees. For the reasons set forth below, this Court GRANTS Defendant's Motion to Dismiss, but DENIES Defendant's Request for Attorney Fees.

II. BACKGROUND

Plaintiff Kevin H. McKenna ("McKenna") was employed with Nestle between October 15, 2001 and October 14, 2004. He was terminated by Nestle for allegedly violating Nestle's Electronic Communications Policy ("ECP"). On October 28, 2005, he brought a lawsuit against Nestle titled, Kevin H.

McKenna v. Nestle Purina Petcare Co., Case No: C2-05-976 ("McKenna Lawsuit").

The events giving rise to this suit arise from the McKenna Lawsuit. On January 19, 2007, Nestle requested this Court take notice of a potential threat to Nancy Goss ("Goss"), a material witness to the McKenna Lawsuit. Goss is a former employee of Nestle who was terminated by Nestle on October 1, 2004 for harassing and threatening her co-workers. McKenna's complaint in the McKenna Lawsuit alleged, among other things, that he reported to Nestle that Goss had sexually harassed him. On October 17th, 18th, and 19th, 2006, Nestle and McKenna deposed Goss. Goss's testimony revealed that she and McKenna had conducted an almost year-long sexual relationship while employed with Nestle. Additionally, Goss testified as to specific sexual acts, sexually explicit conversations, and sexually explicit emails that transpired between her and McKenna. Nestle alleged that Goss's testimony undermined McKenna's claims.

On January 14, 2007, McKenna sent Nestle's counsel an email, which discussed Goss. In this email, McKenna wrote in reference to Goss, "Do I have to KILL this BITCH to get her the fuck off of me? WTF is it you people don't understand?!?!?!?!?!?!?!?!?!?!?!?!" (McKenna email to Brian Dickerson and Jonathan R. Secrest, Jan. 14, 2007) ("Email"). Nestle asserted it could not determine the severity of this threat and whether or not it was made in jest. McKenna previously had visited Nestle's corporate offices in St. Louis, demanding to meet with certain corporate personnel, and was escorted out by security.

Accordingly, Nestle asserts, it felt it had to formally inform the Court of the threat to Goss, and inform Goss as well. On January 19th, Nestle filed a Notice with the Court, which apprised the Court of the situation, and informed the Court that Goss was being served a copy of the Email. (McKenna Lawsuit, doc. no. 71).

On January 22, 2007, McKenna demanded to meet with any "Officer of this Court" to "issue a Civil Protective Order and halt Nestle's service" of the copy of the Email to Goss. (Complaint at p. 5). The Court held a status conference, in which the Court informed McKenna that it did not have the authority to issue a Civil Protective Order of the nature being requested by McKenna. Goss received the Email that same day. After receipt of the Email, Goss contacted the Muskingum County Sheriff's Department to file charges of criminal menacing against McKenna. The Sheriff's Department went to McKenna's residence and informed him it was acting upon a complaint of criminal menacing by Goss. McKenna informed the Sheriff's Department about the events that had occurred. McKenna was not arrested at that time.

On January 23, 2007, McKenna filed an Urgent Notice to Magistrate Judge Kemp to notify Judge Kemp of the events that had transpired. McKenna requested the Court "immediately demand all pertinent information to this matter in possession and control of the Muskingum County Sheriff's Department . . . and act as these egregious acts and justice demands." (McKenna Lawsuit, doc. no. 74). McKenna also requested the Court "order default judgment in this case, and initiate federal

prosecution of the Defendant/Defendant's Counsel in this matter." (Id.) Judge Kemp took no action in response to McKenna's Urgent Notice. On January 25th, the Muskingum County Prosecutors Office dismissed the criminal complaint filed by Goss. On January 26th, McKenna filed a Second Urgent Notice to Magistrate Judge Kemp to submit the Sheriff's Department's report on the matter. (McKenna Lawsuit, doc. no. 76). Judge Kemp took no action in response to this Second Urgent Notice.

McKenna asserts that on January 26, 2007, he sought "Professional, Medical relief of anxiety/emotional distress, inflicted upon McKenna, by actions initiated by Nestle and subsequent events, beginning at January 19, 2007." (Complaint at p. 8). McKenna asserts that his physician "concluded McKenna to be suffering from situational stress." (Id.) Thereby, he was prescribed an anti-depressant/anti-anxiety medication. (Id.) On February 12th and February 16th, McKenna's physician revised his prescription because the current prescription was not working. (Id. at 9). McKenna asserts that he took prescription anti-depressants/anxiety medication from January 2007 through April 2007. (Id.) Since April 2007, McKenna claims that he has suffered multiple symptoms of withdrawal from the anti-depressant/anxiety medication. (Id.)

III. STANDARD OF REVIEW

A case may be dismissed if the complaint does not state a claim on which relief can be granted. Fed. R. Civ. P. 12(b)(6). "A motion to dismiss for failure to

state a claim is a test of the plaintiff's cause of action as stated in the complaint, not a challenge to the plaintiff's factual allegations." *Golden v. City of Columbus*, 404 F.3d 950, 958-59 (6th Cir. 2005). Consequently, the Court must construe the complaint in the light most favorable to the non-moving party, accept all factual allegations as true, and make reasonable inferences in favor of the non-moving party. *Total Benefits Planning Agency, Inc. v. Anthem Blue Cross & Blue Shield*, 553 F.3d 430, 434 (6th Cir. 2008); *Murphy v. Sofamor Danek Group, Inc.*, 123 F.3d 394, 400 (6th Cir. 1997). A court will grant a motion to dismiss under Rule 12(b)(6) only if there is an absence of law to support a claim of the type made or of facts sufficient to make a valid claim, or if on the face of the complaint there is an insurmountable bar to relief indicating that the plaintiff does not have a claim. Cmty. *Mental Health Serv. v. Mental Health & Recovery Bd.*, 395 F. Supp. 2d 644, 649 (S.D. Ohio 2004).

Although liberal, this standard requires more than the bare assertion of legal conclusions. *Allard v. Weitzman*, 991 F.2d 1236, 1240 (6th Cir. 1993). Under the federal pleading requirements, a plaintiff's complaint must include "a short and plain statement of the claim showing that the pleader is entitled to relief." See Fed. R. Civ. P. 8(a)(2). The complaint must "give the defendant fair notice of what the claim is, and the grounds upon which it rests." *Nader v. Blackwell*, 545 F.3d 459, 470 (6th Cir. 2008) (quoting *Erickson v. Pardus*, 551 U.S. 89, 127 S.Ct. 2197, 2200 (2007) (internal quotations omitted)). While a complaint need not contain "detailed factual allegations," its "factual allegations

must be enough to raise a right to relief above the speculative level on the assumption that all the allegations in the complaint are true." *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 127 S.Ct. 1955, 1964 (2007).

IV. LAW AND ANALYSIS

A. Count One of McKenna's Complaint

In order to establish a prima facie case of retaliation, McKenna must show that: (1) he engaged in a protected activity; (2) Nestle knew that he engaged in the protected activity; (3) as a result of McKenna exercising his protected rights, Nestle took an employment action adverse to him; and (4) a causal connection exists between the protected activity and the adverse employment action. See *Fenton v. HiSAN*, 174 F.3d 827, 831 (6th Cir. 1999).

Construing McKenna's Complaint in the light most favorable to him, McKenna clearly has not alleged a prima facie case of retaliation, primarily because of his inability to establish the third prong. McKenna asserted in his Complaint that Nestle, "instigat[ed] the filing of false criminal charges against me, for my filing charges [of] unlawful discrimination (opposition) against Nestle . . ." (Complaint at p. 1). In McKenna's Response in Opposition, he again states that the adverse action he suffered was a "Criminal Complaint filed against McKenna." (Response in Opposition at p. 11). Reviewing both McKenna's Complaint and McKenna's Response in Opposition, however, reveals no allegation that Nestle ever filed criminal charges against McKenna.

Rather, McKenna states, "Nancy J. Goss contacted the Muskingum County Sheriff's Department to file a criminal complaint against McKenna." (Complaint at p. 7). There is no allegation that Nestle contacted the Sheriff's Department, that Nestle told Goss to contact the Sheriff's Department, that Nestle knew Goss was contacting the Sheriff's Department, or that Nestle had any control over Goss's actions. Goss is a former employee of Nestle who was fired by Nestle. Any actions Goss took were of Goss's own accord. The assertion that Nestle could in any way be liable for the actions of Goss is unsupportable.

Furthermore, Count One is based on the filing of "false criminal charges." (Id. at p. 1). There is no allegation in McKenna's Complaint that any false criminal charges were filed. McKenna asserts that the Muskingum County Prosecutor's Office determined that McKenna's actions "did not constitute an `overt threat' by McKenna against Nancy J. Goss." (Id. at p. 8). The Complaint does not state, however, that the criminal charges were "false." Though ultimately non-meritorious, the charges were based on a "true" email sent by McKenna to Nestle's counsel containing threatening language concerning Goss.

McKenna has failed to allege facts to support that Nestle "instigat[ed] the filing of false criminal charges" against McKenna. The third prong of the prima facie case for retaliation has therefore not been established. Nestle's Motion to Dismiss Count One is GRANTED.

B. Count Two of McKenna's Complaint

To state a claim for intentional infliction of emotional distress, McKenna must allege that: (1) Nestle intended to cause emotional distress or knew or should have known that its conduct would result in serious emotional distress to McKenna; (2) Nestle's conduct was outrageous and extreme and beyond all possible bounds of decency and was such that it can be considered as utterly intolerable in a civilized community; (3) Nestle's conduct was the proximate cause of McKenna's psychic injury; and (4) McKenna's emotional distress was serious and of such a nature that no reasonable person could be expected to endure it. See *Quintile v. Medina County*, No. 1:07CV2413, 2008 WL 2484173, at *8 (N.D. Ohio June 17, 2008) (citing *Ekunsumi v. Cincinnati Restoration, Inc.*, 698 N.E.2d 503, 506 (Ohio App. 1 Dist. 1997)). With regard to the "outrageous and extreme conduct" element, the Ohio Supreme Court explained:

> It has not been enough that the defendant has acted with an intent which is tortious or even criminal, or that he has intended to inflict emotional distress, or even that his conduct has been characterized by `malice,' or a degree of aggravation which would entitle the plaintiff to punitive damages for another tort. Liability has been found only where the conduct has been so outrageous in character, and so extreme in degree, as to go beyond all possible bounds of decency, and to be regarded as atrocious, and utterly intolerable in a civilized community.

> Generally the case is one in which the recitation of the facts to an average member of the community would arouse his resentment against the actor, and lead him to exclaim, `Outrageous.'

Yeager v. Local Union 20, 453 N.E.2d 666, 671 (Ohio 1983) (overruled on other grounds) (internal quotation marks and citation omitted), cited in Martin v. JBS Techs., LLC, 443 F.Supp.2d 962, 969-70 (S.D. Ohio 2006).

McKenna asserts as the basis for his intentional infliction of emotional distress claim that Nestle informed Goss about McKenna's Email, even though Nestle was "expressly and repeatedly warned [about the harm that] could or would come to McKenna by Ms. Goss" and Nestle "caus[ed] Ms. Goss (third-party) to initiate a criminal complaint against McKenna." (Response in Opposition at p. 13). Once again, Nestle did not file any criminal charges against McKenna, Goss did. The only thing Nestle did was send Goss the Email that McKenna had sent to Nestle's counsel. If McKenna did not want this Email shared, perhaps he should not have sent it to the opposing party's counsel in the first place. Nestle had every right to communicate with one of its key witnesses about a potential threat to that witness, and there was nothing privileged or protected about that Email. It was not up to Nestle to assess this threat; that was Goss's decision. Goss knows McKenna better than Nestle and was in a better position to determine whether McKenna was actually threatening her or blowing off steam. On her own, Goss determined McKenna's threat was legitimate

and contacted the Sheriff's Department. Nothing done by Nestle was extreme or outrageous. Nestle simply provided a copy of the Email, concerning Goss, to Goss. Nestle's Motion to Dismiss Count Two is therefore GRANTED.

C. Request for Attorney Fees

Nestle also requests attorney fees incurred in defending this action. Pursuant to 28 U.S.C.S. § 1927:

Any attorney or other person admitted to conduct cases in any court of the United States . . . who so multiplies the proceedings in any case unreasonably and vexatiously may be required by the court to satisfy personally the excess costs, expenses, and attorneys' fees reasonably incurred as a result of such conduct.

Nestle asserts that no reasonable person could find that McKenna's Complaint contains any merit. Nestle claims that the proceedings in this case were unreasonable and vexatious, and their purpose was solely to harass Nestle.

The Sixth Circuit authorized an award of attorney fees against a Title VII plaintiff in Riddle v. Egensperger, 266 F.3d 542 (6th Cir. 2001). The Riddle Court determined such an award was proper when a plaintiff's action is "frivolous, unreasonable, or without foundation." Id. at 557. The Riddle Court cautioned, however, that awarding attorney's fees to a defendant is only appropriate in "the most extreme and egregious cases of misconduct." Id. In this case, though this Court has found the claims to be

ultimately non-meritorious, this is not the rare circumstance justifying awarding Nestle attorney's fees. Nestle's Request for Attorney Fees is therefore DENIED.

Nevertheless, this Court cautions that pleadings McKenna has filed in this action move dangerously close to sanctionable behavior. Being a pro se litigant is not a license for McKenna to state and do whatever he wants. There is not a different standard for Rule 11 sanctions for attorneys and non-attorneys. Spurlock v. Demby, No. 92-3842, 1995 WL 89003, at *2 (6th Cir. Mar. 2, 1995). Rather, Rule 11 "speaks of attorneys and parties in a single breath and applies to them a single standard." Id. (quoting Bus. Guides, Inc. v. Chromatic Communications Enters., Inc., 498 U.S. 533, 548 (1991). Pro se filings do not serve as an "impenetrable shield, for one acting pro se has no license to harass others, clog the judicial machinery with meritless litigation, and abuse already overloaded court dockets." Grider v. Irvin, No. 1:06CV-53-TBR, 2007 WL 4441214, at *4 (W.D. Ky. Dec. 17, 2007) (granting Rule 11 sanction of attorney's fees against pro se plaintiffs for filing an unreasonable motion to amend judgment); see also Cooksey v. McElroy, No. 1:07cv581, 2008 WL 4367593, *25 (S.D. Ohio Sept. 24, 2008) (finding that it is appropriate to impose sanctions against a pro se plaintiff for his violation of Rule 11); Kish v. U.S., No. 1:95:MC-109, 1996 WL 196730, *5 (W.D. Mich. Jan. 30, 1996) (granting monetary Rule 11 sanction against pro se plaintiffs).

In the McKenna Lawsuit, Judge Kemp has already specifically warned McKenna about his comments

filed in pleadings. In denying Nestle's Motion for Sanctions, Judge Kemp stated:

> The Court will not award sanctions at this time. However, Mr. McKenna is advised, in the future, to be more temperate in his comments toward the conduct of opposing counsel. If he does choose to make statements impugning the honesty or integrity of such counsel and is not able to support such statements with a factual showing, sanctions may well be imposed in the future.

(McKenna Lawsuit, doc. no. 97 at pp. 5-6). In this case, in McKenna's Response in Opposition, McKenna accuses Nestle's counsel of, among other things, engaging in an "insanely `aggressive' campaign to `win' Case C2-05-976 by absolutely any and all means at their disposal" (Response in Opposition at p. 2); "set[ting] out on an aggressive course to obstruct any and all further discovery requests made upon Nestle" (Id. at p. 3); and "effectively attempt[ing] to `assassinate' any aspect of my life within their means and reach" (Id. at p. 4). These comments are inappropriate and unsupported. This serves as McKenna's final warning to temper his comments toward the conduct of opposing counsel. If McKenna continues to impugn the honesty or integrity of opposing counsel without factual support, sanctions will be imposed.

V. CONCLUSION

For the foregoing reasons, this Court GRANTS Defendant's Motion to Dismiss, but DENIES Defendant's Motion for Attorney Fees.

IT IS SO ORDERED.

NOT RECOMMENDED FOR FULL-TEXT PUBLICATION

No. 09-3400

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

KEVIN H. MCKENNA,

Plaintiff-Appellant,

v.

NESTLE PURINA PETCARE COMPANY,

Defendant-Appellee.

On Appeal From The United States District Court
for the Southern District of Ohio

ORDER

Before: KEITH, DAUGHTREY, and GIBBONS, Circuit Judges.

Kevin H. McKenna, an Ohio resident proceeding pro se, appeals a district court's order and judgment granting defendant's motion to dismiss filed pursuant to Fed. R. Civ. P. 12(b)(6). This case has been referred to a panel of the court pursuant to Rule 34(j)(1), Rules of the Sixth Circuit. Upon examination, this panel unanimously agrees that oral argument is not needed. Fed. R. App. P. 34(a).

In 2008, McKenna filed a complaint against Nestle Purina Petcare Company ("Nestle") alleging retaliation under 42 U.S.C. § 2000e-5(f)(1), and intentional infliction of emotional distress under Ohio Rev. Code § 4112.02. Nestle filed a motion to

dismiss, arguing that McKenna failed to state a claim upon which relief may be granted. The district court granted the motion to dismiss and entered judgment in favor of Nestle.

On appeal, McKenna argues that the district court erred in dismissing his complaint because he alleged sufficient facts to state a claim for retaliation and intentional infliction of emotional distress.

We review de novo a district court's dismissal of a complaint pursuant to Fed. R. Civ. P. 12(b)(6). *Kottmyer v. Maas*, 436 F.3d 684, 688 (6th Cir. 2006). In considering whether dismissal for failure to state a claim is appro-priate, the court must accept as true all factual allegations in the complaint and construe the complaint in the light most favorable to the plaintiff. *Gunasekera v. Irwin*, 551 F.3d 461, 466 (6th Cir. 2009). To avoid dismissal, "a com-plaint must contain sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'" *Ashcroft v. Iqbal*, 129 S. Ct. 1937, 1949 (2009) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). Generally, pro se pleadings "are liberally construed when determining whether they fail to state a claim on which relief can be granted." *Martin v. Overton*, 391 F.3d 710, 712 (6th Cir. 2004).

In his complaint, McKenna alleges that he was employed by Nestle from October 2001 to October 2004. In October 2005, McKenna filed a Title VII complaint against the company asserting that he had been harassed by Nancy Goss, a fellow employee. McKenna alleges that Ms. Goss had her employment with Nestle terminated in fall 2004.

While conducting discovery in the Title VII action, McKenna and Nestle exchanged numerous emails, include-ing an "emotionally distressed" email

("the email") sent from McKenna to Nestle concerning Ms. Goss. Construing the email as constituting a possible threat against Ms. Goss, Nestle subsequently initiated service of the email to Ms. Goss. McKenna unsuccessfully sought a court order to halt service of the email to Ms. Goss.

McKenna alleges that, after receiving a copy of the email from Nestle, Ms. Goss filed formal charges of criminal menacing against him with the Muskingum County Sher-iff's Department. The Sheriff's Department subsequently visited McKenna, but he was not arrested or prosecuted.

McKenna alleges that, as a result of Nestle's actions, he was forced to seek medical treatment, that he took anti-anxiety medication for several months, and that he suffered multiple symptoms of withdrawal after he stopped taking the medication. To establish a prima facie case of retaliation, a plaintiff must establish that 1) he engaged in protected activity, 2) the employer knew of the exercise of the protected right, 3) an adverse employment action was subsequently taken against the employee, and 4) there was a causal connection between the protected activity and the adverse employment action. *Hawkins v. Anheuser- Busch, Inc.*, 517 F.3d 321, 345 (6th Cir. 2008); see also *Greer-Burger v. Temesi*, 879 N.E.2d 174, 180 (Ohio 2007). The "adverse employment action" requirement in the retaliation context is not limited to an employer's actions that solely affect the terms, conditions, or status of employment or only those acts that occur at the workplace. The retaliation provision instead protects employees from conduct that would have "dissuaded a reasonable worker from making or

supporting a charge of discrimination." *Hawkins*, 517 F.3d at 345.

McKenna alleges that Nestle retaliated against him by "instigating the filing of false criminal charges." McKenna further alleges, however, that it was Nancy Goss, not Nestle, who filed the criminal complaint against him. McKenna does not allege that Nestle knew Ms. Goss was filing the complaint, that it encouraged her to do so, or that Nestle had any control over Ms. Goss as its former employee. Thus, McKenna has failed to state a claim for retaliation because he has not sufficiently alleged facts showing that Nestle was responsible for a materially adverse action taken against him.

Under Ohio law, a plaintiff claiming intentional infliction of emotional distress must show that 1) the defendant intended to cause emotional distress or knew or should have known that its conduct would result in serious emotional distress to the plaintiff; 2) defendant's conduct was outrageous and extreme and beyond all possible bounds of decency and was such that it can be considered as utterly intolerable in a civilized community; 3) defendant's conduct was the proximate cause of plaintiff's psychic injury; and 4) plaintiff's emotional distress was serious and of such a nature that no reasonable person could be expect-ed to endure it. *Quintile v. Medina County*, No. 1:07CV2413, 2008 WL 2484173, at *8 (N.D. Ohio June 17, 2008) (citing *Ekunsumi v. Cincinnati Restoration*, Inc., 698 N.E.2d 503, 506 (Ohio Ct. App. 1997)).

McKenna alleges that Nestle caused him emotional distress by "instigating the filing of false criminal charges" and by sending McKenna's "emotionally distressed" email to Ms. Goss. As discussed

above, McKenna has not adequately alleged facts demonstrating that Nestle was involved in the filing of the criminal charges. Further, neither action was so extreme and outrageous as to give rise to a claim of intentional infliction of emotional distress.

McKenna's argument that he has stated a claim for negligent infliction of emotional distress lacks merit be-cause Ohio courts "do not recognize a separate tort for negligent infliction of emotional distress in the employment context." *Tschantz v. Ferguson*, 647 N.E.2d 507, 521 (Ohio Ct. App. 1994).

Accordingly, the district court's order and judgment granting defendant's motion to dismiss are affirmed. Rule 34(j)(2)(C), Rules of the Sixth Circuit.

ENTERED BY ORDER OF THE COURT

Leonard Green

Clerk

No. 09-3400

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

KEVIN H. MCKENNA,

Plaintiff-Appellant,

v.

NESTLE PURINA PETCARE COMPANY,

Defendant-Appellee.

Feb 17, 2010

ORDER

Before: KEITH, DAUGHTREY, and GIBBONS, Circuit Judges.

The court having received a petition for rehearing en banc, which was circulated to all active judges of this court, none of whom requested a vote on the suggestion for rehearing en banc, the petition for rehearing has been referred to the original panel.

The panel has further reviewed the petition for rehearing and concludes that the issues raised in the petition were fully considered upon the original submission and decision of the case. Accordingly, the petition is denied.

ENTERED BY ORDER OF THE COURT

Leonard Green

Clerk

III: STATEMENT OF CLAIM

My Statement of Claim, that I, Kevin H. McKenna am a:

1. Victim of discrimination, (IE - "retaliated" against) as a Title VII complainant, by Nestle Purina PetCare Co., by no less than, instigating the filing of false criminal charges against the me, for my filing charges unlawful discrimination (opposition) against Nestle Purina PetCare Co., and directly participating proceedings (participation) against unlawful employment practices by Nestle Purina PetCare Co. through and by the actions currently being brought against the Defendant in a Title VII, employment discrimination law suit, on record with this very Court, (Case No. C2-05-976).

2. Victim of intentional (or negligent) actions taken by Nestle Purina PetCare Co., against me, which inflicted emotional distress/harm upon me.

The facts detailed hereinafter and giving rise to this now new/separate Complaint transpired during the course of the litigation (IE- the "Discovery" period) within the still pending as Case No. C2-05-976 in the Federal District Court of Southern Ohio, Eastern Division.

Parties: Plaintiff - Kevin H. McKenna
(hereafter "McKenna")

Defendant - Nestle Purina PetCare Co.
(hereafter "Nestle")

Related Case: C2-05-976, on file with the Federal District Court of Southern Ohio, Eastern Division (hereafter "Case C2-05-976" when referring to Case C2-05-976, and "this Court" when referring to the Court)

Summary of Facts, which surround this Complaint:

1. McKenna was an employee of Nestle from October 15, 2001 through to October 14, 2004.

2. On August 31, 2004, While employed by Nestle, McKenna informed Nestle, that:

    a. He had gone to the Police, about a month prior, regarding a fellow-employee Nancy Goss.
    b. Nancy Goss has signs of instability and possible hostility against him.

3. On October 28, 2005, McKenna filed a formal Title VII complaint against Nestle with the Federal District Court of Southern Ohio, Eastern Division (Case C2-05-976), claiming that, among other things, that a co-worker, Nancy J. Goss, harassed McKenna, while employed by Nestle in 2004.

4. On November 21, 2005, Nestle directly responded to McKenna's October 28, 2005, formal Title VII complaint on file with the Federal District Court of Southern Ohio, Eastern Division, (Case C2-05-976) by Nestle filing its formal Answer to that same Title VII complaint.

5. On November 21, 2005, Nestle admitted, among other things in Nestle's Answer to McKenna's Complaint of case C2-05-976, in the Fall of 2004, that Nancy J. Goss's employment with Nestle was: "*terminated for being an "over threat", for harassing and threatening her co-worker(s)*".

6. Nancy J. Goss and McKenna were co-workers, employed by Nestle at the time Nancy J. Goss's employment was "*terminated for being an "over threat", for harassing and threatening her co-worker(s)*" with Nestle in 2004.

7. On February 1, 2006 @ 3:05 PM, McKenna sent notice to Nestle by electronic mail, explicitly informing Nestle that:

    a. "*Nancy J. Goss is perceived to be an "Overt Threat" by myself and my family*".
    b. "***(This document will be kept on record, so that in the case that a situation arises in the future, that you were expressly informed and REQUESTED to excercise due and reasonable care in regards to this matter)***".

8. On February 1, 2006 @ 10:12 PM, by means of electronic mail, Plaintiff notified Nestle that:

    a. "*Suffice to say, words can not properly express how intensely serious I am that EXTREME CARE MUST BE TAKEN if*

some sort of action is going to even indirectly (re)involve Nancy with me."

b. McKenna was, "*STALKED in complete absence of rational thought and behavior*" by Nancy J. Goss.

9. On February 2, 2006 @ 10:22AM, by means of electronic mail, Nestle affirmed receipt of the February 1, 2006 @ 10:12 PM email, by directly responding to the concerns expressed by McKenna within that communication regarding Nancy J. Goss.

10. On February 22, 2006 @ 1:36PM, by means of electronic mail, McKenna communicated to Nestle, his concerns of having his life (again) exposed Nancy J. Goss's perception of her relationship with McKenna.

11. On February 22, 2006 @ 1:38PM, by means of electronic mail, Nestle affirmed receipt of the February 22, 2006 @ 1:36PM communication, by Nestles response to McKenna with the contents of the February 22, 2006 @ 1:36PM communication by McKenna appended to Nestles response to McKenna on that date.

12. On or about April 14, 2006, Nestle was *formally* served, by means of a *Certified* (signed, notarized, and sworn to be true) response to the Nestle's formal Rule 33 Discovery Request in Case C2-05-976, where among other things, stated: "*The Plaintiff deems Nancy J. Goss to be STALKER, and therefore an overt threat to the Plaintiff's life*

and anything that may associate with the Plaintiff's life".

13. On June 16, 2006 @ 10:13AM, by means of electronic mail, McKenna informed Nestle (among other things) that:

    a. By means of documents within Nestle's possession, that Nancy J. Goss has a (documented) "*history of Psychiatric/ Psychological issues of which have required her to be under the care of a Therapist*"
    b. "*I advise you in all sincereity, do NOT expect a normal, reasonable, rationale response and/or reaction from Nancy Goss in a request for deposition.*"
    c. "*I have advised and warned you REPEATEDLY as to Nancy Goss's potentially hostile/violent irrationality, let this SERVE as my last best effort to have properly (warned) informed you.*"

14. On June 16, 2006 @ 4:49PM, by means of electronic mail, Nestle affirmed its knowledge of the matters communicated by McKenna on June 16, 2006 @ 10:13AM by directly electronically replying to that same (electronic) communication.

15. During the summer of 2006, Nestle was served copy of a document of Public Record, titled: "Supplementary Report", dated: "6/8/06", Inc.#: 0601125, of the Zanesville Police Department, where the Investigating and Reporting Officer

McIntyre stated in regards to his conversation with McKenna, that:

a. *"He stated that while at work, he was being, in his opinion, sexually harassed by a female employee there".*
b. *"According to McKenna, he was in fear that the whole situation may become violent at some time."*
c. *"He stated that he would just like to have note of it in case they did find his body, possibly floating in the river, the police would know who to go after."*

16. On July 24, 2006, Nestle and McKenna in Case C2-05-976, entered into an Agreed Protective Order.

17. On the three consecutive dates of October 17, 18 and 19 of 2006, Nestle was represented, as a party to, and did conduct sworn deposition of Nancy J. Goss in Case C2-05-976.

a. On October 17, 2006, at the very onset of the deposition Nancy J. Goss ("**Defendants Exhibit 1**"), Nestle initiated action(s) to instigate hostility of Nancy J. Goss towards McKenna, by introducing and directly calling Nancy J. Goss's attention to statements McKenna had previously made to Nestle within that electronic mail regarding Nancy J. Goss's emotional/ mental instability. (Paragraphs 2, 3 and 4 of an electronic mail sent to Nestle by

McKenna on June 16, 2006 @ 10:13AM, as is previously referenced within this Statement of Facts).

b. On October 17, 2006, during the deposition Nancy J. Goss, and on record, Nestle expressly entered into an agreement with Nancy J. Goss, and McKenna, that the deposition transcript of Nancy J. Goss be "sealed" until trial.

c. On October 17, 2006, during the deposition Nancy J. Goss, Nestle directly clarified that the Judge and Court Personnel would be able to view Nancy J. Goss's deposition transcript while under seal.

d. On October 19, 2006, Ms. Goss, during sworn deposition testimony, in the presence of Nestle, testified that by means of Ms. Goss's signed/sworn complaint to the Ohio Civil Rights Commission, had filed a known false complaint (of sexual harassment) against "The Times Recorder" of Zanesville, Ohio, with the Ohio Civil Rights Commission, at the time that it was filed.

18. On December 19, 2006, by means of electronic mail, Nestle affirmed its knowledge of matters communicated between McKenna and Officer Phillip B. McIntire of the Zanesville Police Department relevant to Nancy J. Goss.

19. On December 21, 2006, by means of electronic mail, Nestle affirmed its knowledge of matters

communicated between McKenna and Officer Phillip B. McIntire of the Zanesville Police Department relevant to Nancy J. Goss.

20. On January 13, 2007, Nestle sent a (responsive to a previous email) (sexually natured) email to McKenna.

21. On January 13-14, 2007, McKenna directly responded to Nestle's (sexually natured) harassing email, and sent several emails in response to Nestle's (sexually natured) email sent to McKenna.

22. On January 14, 2007 @ 2:15PM, McKenna informed Nestle, among other things, that :

    a. She (Nancy J. Goss) "*is THEE single most hostile entity I have ever encountered, and I WILL NOT CONFRONT her until I have completely resolved to myself that I am literally willing to take her life, in defense of my life, and/or those around me.*"
    b. "*THEN, since I will have attacked her dellusion(s), I must them prepare to defend the consequenses of that act.... and be prepared to defend my life, with my life, which I will do at that time*"

23. On January 14, 2007 @ 10:25PM, McKenna also sent an emotionally distressed email to Nestle, instigated by Nestle's (sexually natured) email.

a. This emotionally distressed email was directly responsive to Nestle's (sexually natured) email sent to McKenna by Nestle on January 13, 2007.

24. On January 19, 2007, Nestle filed Case C2-05-976, document #70, where Nestle filed a Motion with this Court to *unseal* the deposition transcript of Nancy J. Goss, among other things, for benefit of this Court (IE - Judge and/or other Court Personnel) to view the deposition transcript of Nancy J. Goss.

25. On January 19, 2007, Nestle filed Case C2-05-976, document #71 and an associated exhibit.

a. Court document C2-05-976 #71's exhibit (71-2), is a "forwarded" copy of the email sent by McKenna to Nestle on January 14, 2007 @ 10:25PM, with the (sexually natured) instigating email sent by the Nestle, to McKenna, *removed* from the context of the document/exhibit.

26. On January 19, 2007, Nestle made "electronic service" of a copy of a Case C2-05-976, document #70 to McKenna.

27. On January 19, 2007, Nestle made "electronic service" of a copy of Case C2-05-976, document #71 to McKenna, inclusive of all associated "exhibits".

28. On January 19, 2007, Nestle initiated service of a hard copy of Case C2-05-976, document #70 upon

McKenna by means of conventional ("ground") mail.

29. On January 19, 2007, Nestle initiated service of a hard copy of Case C2-05-976, document #71 inclusive of associated exhibit(s) upon McKenna by means of conventional ("ground") mail.

30. On January 19, 2007, Nestle initiated service of a hard copy of Case C2-05-976, document #70 upon Nancy J. Goss by means of conventional ("ground") mail.

31. On January 19, 2007, Nestle initiated service of a hard copy of Case C2-05-976 document #71, *absent* associated exhibit(s) related to Case C2-05-976, document #71 (document 71-2) upon Nancy J. Goss by means of conventional ("ground") mail.

32. On January 20, 2007 (approximately, Very Early AM), McKenna and Nestle engaged in multiple communications by means of electronic mail, where McKenna, among other things, *animatedly* attempted to halt service of associated exhibit(s) related to Case C2-05-976, document #71 (71-2) by Nestle, upon Nancy J. Goss.

    a. On January 20, 2007, by communication of electronic mails between McKenna and Nestle, McKenna animatedly demanded Nestle halt, and not make service of the exhibit associated with Case C2-05-976, document #71 (71-2) upon Nancy J. Goss, due to representations made by McKenna

within that email/exhibit, animatedly rebuking Ms. Goss's delusional perceptions/ representations of relationship with McKenna, as stalking and harassment.

b. On January 20, 2007, McKenna expressly informed Nestle, that service of the exhibit associated with Case C2-05-976, document #71 (71-2) upon Nancy J. Goss was, *"by doing so that it is perceived by me to be a direct threat to my life and physical well being"*.

c. On January 20, 2007, McKenna expressly informed Nestle, that service of the exhibit associated with Case C2-05-976, document #71 (71-2) upon Nancy J. Goss, that: *"This act is deened to be as much a THREAT to me and my life as sticking a loaded gun to my nose, it is completely intolerable"*.

d. On January 20, 2007, McKenna expressly informed Nestle, specific actions would be taken by McKenna, with this Court at the first available moment (IE - Monday morning, January 22, 2007) to halt Nestle's service of the exhibit associated with Case C2-05-976, document #71 (71-2) upon Nancy J. Goss.

33. On January 20, 2007(Very Early AM), Nestle represented to McKenna by electronic mail, that Nestle would be prepared to represent Nestle in any action(s) brought by McKenna before the Court on the Monday morning, of January 22, 2007.

34. On January 20, 2007 (approximately, Shortly After Noon), McKenna received hard copy service of Case C2-05-976, document #70, #71 and associated exhibit(s) by conventional ("ground") mail.

35. On January 22, 2007 at approximately 9:00AM, McKenna (accompanied by family, wife Linda and daughter Michelle, as witnesses to refute the representations/allegations made by Nestle to the Court) demanded to meet with *any* Officer of this Court, specifically to issue a Civil Protective Order and halt Nestle's service of the exhibit associated with Case C2-05-976, document #71 (71-2).

36. On January 22, 2007, at approximately 9:45AM, McKenna was granted a meeting at or about 11:00AM with a Judicial Officer of this Court to hear McKenna's requests to issue a Civil Protective Order and halt Nestle's service of the exhibit associated with Case C2-05-976, document #71 (71-2). ("Status Conference" between Case C2-05-976, Docket Items #72 and #73).

37. On January 22, 2007, at approximately 11:00AM, during the meeting with the Officer of this Court, the Officer was informed by McKenna that the purpose of the requested meeting, was to request the Court issue a Civil Protective Order, and in an attempt to halt service of the exhibit associated with Case C2-05-976, document #71 (71-2) by Nestle, upon Nancy J. Goss.

38. On January 22, 2007, during the meeting with the Officer of this Court, the Officer informed McKenna, that the Court did not have the authority to issue a Civil Protective Order of the nature being requested by McKenna.

39. On January 22, 2007, during the meeting with the Officer of this Court, the Officer of this Court stated he was willing to hear the issue to halt service of the exhibit (Case C2-05-976, document #71-2) by Nestle upon Nancy J. Goss.

40. On January 22, 2007, during the meeting with the Officer of this Court, the Officer directly asked Nestle if an "Agreed Protective Order" was in place between the parties, protecting against disclosure information deemed by either or both of the parties, to be confidential.

41. On January 22, 2007, during the meeting with the Officer of this Court, and in direct response to the relevant question posed by the Officer of this Court, Nestle had represented to the Officer of this Court, that an "Agreed Protective Order" was *not* in place between the parties.

42. On January 22, 2007, during the meeting with the Officer of this Court, Nestle had represented to the Officer that service of the exhibit(s) associated with Case C2-05-976, document #71 (71-2) had in fact *already* been executed upon Nancy J. Goss.

43. On January 22, 2007, the Officer of this Court dismissed the meeting based upon the

representation of Nestle that service of the Document had already been executed, citing that the Officer of this Court was incapable of stopping an event which had already occurred.

44. On January 22, 2007, at approximately 6:00PM (the same day of the meeting with the Officer of this Court), Nancy J. Goss conferred with Nestle, requesting service of the exhibit associated with Case C2-05-976, document #71, which had not been successfully served upon Nancy J. Goss by conventional ("ground") mail.

45. On January 22, 2007, at approximately 6:00PM, Nestle made *electronic* service of the exhibit (Case C2-05-976, document #71-2) to Nancy J. Goss.

46. On January 22, 2007, at approximately 6:26PM, based upon the information communicated by Nestle to Nancy J. Goss, Nancy J. Goss contacted the Muskingum County Sheriff's Department to file a criminal complaint against McKenna.

47. On January 22, 2007, at approximately 6:26PM, based upon the information disclosed by Nestle, Goss formally indicated to the Muskingum County Deputy Sheriff Paisley on sight, that she wanted to file formal charges criminal menacing against McKenna.

48. On January 22, 2007, at approximately 7:45PM, and in direct response to the complaint of criminal menacing filed by Nancy J. Goss against McKenna, the Muskingum County Deputy Sheriff Paisley visited the residence of McKenna

49. On January 22, 2007, at approximately 7:45PM the Muskingum County Deputy Sheriff Paisley stated to McKenna that based upon the exhibit (71-2) received by Goss, that the Deputy Sheriff was acting upon a complaint of criminal menacing by Nancy J. Goss against McKenna.

50. On January 22, 2007, In an attempt to avoid being arrested by the Muskingum County Deputy Sheriff Paisley for criminal menacing based upon the complaint filed by Nancy J. Goss, McKenna (and family members (*as witnesses*), wife Linda, and daughter Michelle) *all* emphatically informed the Deputy that very specific actions had been taken earlier that same day with a Judicial Officer of the Federal District Court of Ohio, in an attempted effort to halt Nestle's service of that exact same exhibit (71-2) upon Nancy J. Goss.

51. On January 22, 2007, In further efforts to avoid being arrested by the Muskingum County Deputy Sheriff Paisley, McKenna produced his laptop computer where this Courts docket on Case C2-05-976 was brought up on the spot by means of the PACER/ECF filing/access system, in order offer *irrefutable evidence* that the representation that this Court had indeed been involved by McKenna, in order to attempt to halt service of the exhibit which lead to the criminal complaint, and pending criminal charges. (Case C2-05-976 between docket items #72 and #73)

52. On January 22, 2007, Only after being presented with direct and irrefutable evidence (two other witnesses, and this Courts Docket for Case C2-05-

976 via PACER/ECF that service of the exhibit (71-2) by Nestle upon Nancy J. Goss, had been attempted to have been halted *by McKenna*, did the Muskingum County Deputy Sheriff finally deem that the immediate arrest of McKenna was not warranted at that time.

53. On January 22, 2007, had McKenna not taken a day off from work, demanded to see an Officer of this Court, and irrefutable, hard evidence not been available by witnesses and Pacer/ECF, McKenna would have been arrested for criminal menacing based upon the service of Case C2-05-976, document #71-2 upon Nancy J. Goss by Nestle on January 22, 2006 at approximately 6:00PM.

54. On January 23, 2007, at 9:05AM, McKenna filed an "Urgent Notice" with the Clerk of Courts, of this Court (Case C2-05-976, document #74) notifying this Court of further, subsequent actions taken by Nestle on Monday, January 22, 2007.

55. On January 23, 2007, at approximately 9:05AM, McKenna requested an additional exact copy of the Notice, with the Clerks *official time stamp*, was requested of, and provided by the Clerks of Courts Office of this Court, to as promptly as possible, file with the Muskingum County Sheriff's Department.

56. On January 23, 2007, at approximately 12:00PM, McKenna visited the Local Sheriff's Records Department, and emphatically requested the exact copy of the "Urgent Notice" (Case C2-05-

976, document #74) previously obtained by McKenna from the Clerk of Courts Office at approximately 9:05AM, be included in the Sheriffs records of the criminal complaint against McKenna.

57. On or about January 24-25, 2007, The Muskingum County Sheriff's Department determined that the statements communicated by McKenna to Nestle, within the private email sent by McKenna to Nestle (identified as exhibit(s) associated with Case C2-05-976, document #71 (71-2)) did not legally constitute an "overt threat" by McKenna against Nancy J. Goss.

58. On January 24, 2007, (*the very next day*) the Criminal Complaint, Criminal Charges and all Records against McKenna on file with the Sheriffs Department were forwarded to the Muskingum County Prosecutors Office.

59. On January 25, 2007, it was the finding of the Muskingum County Prosecutors Office, that the exhibit(s) associated with Case C2-05-976, document #71 (71-2), did not legally constitute an "overt threat" by McKenna against Nancy J. Goss.

60. On January 25, 2007, The Muskingum County Prosecutors Office, based upon the information on record, the criminal complaint filed by Nancy J. Goss and any/all relevant charges against McKenna were dismissed.

61. On January 26, 2007, McKenna seeks Professional, Medical relief of anxiety/emotional

distress, inflicted upon McKenna, by actions initiated by Nestle and subsequent events, beginning at January 19, 2007.

62. On January 26, 2007, McKenna's personal Physician, by direct examination of McKenna, concluded McKenna to be suffering from situational stress.

63. On January 26, 2007, based upon McKenna's personal Physicians diagnosis of McKenna, McKenna was immediately prescribed an anti-depressant/anti-anxiety medication.

64. On January 26, 2007, McKenna promptly tendered medications from a local pharmacy as prescribed by his personal Physician.

65. On January 26, 2007, McKenna initiated dosage of anti-depressant/anti-anxiety medication as prescribed to the Plaintiff.

66. On February 12, 2007, McKenna consults his personal Physician, that the January 26, 2007 prescription was wholly ineffective to relieving his symptoms of distress/anxiety/depression, and requested an alternative prescription.

67. On February 12, 2007, McKenna's personal Physician revised the Plaintiff's prescription to alternative anti-depressant/anxiety medication.

68. On February 12, 2007, McKenna promptly tendered medications from a local pharmacy as prescribed by his personal Physician.

69. On February 12, 2007, McKenna initiated dosage of the alternative anti-depressant/anti-anxiety medication as prescribed to the Plaintiff.

70. On February 16, 2007, McKenna further consults his personal Physician in regards to dosage of the alter-native anti-depressant/anxiety medication pre-scribed on February12, 2007 as ineffective to McKenna's symptoms.

71. On February 16, 2007, McKenna's personal Physician triples McKenna's initial dosage of the alternative anti-depressant/anxiety medication in an attempt to relieve McKenna's distress/ anxiety/depression.

72. From January 2007 through April of 2007, McKenna was maintained on prescription anti-depressant/anxiety medication.

73. From April of 2007 through approximately July, McKenna suffered multiple, symptoms of withdrawal from the prescription anti-depressant/ anxiety medication.

From: Kevin McKenna
Sent: Saturday, November 04, 2006 8:43 AM
To: Keith Schneider
Cc: Jon Secrest
Subject: NOTICE:

Gentlemen,

I am giving you notice, that if this case continues the path of no resolution, and progresses towards trial (with as grossly horrific as this case is), I will be required to seek expert witness(s) within the psychological field. While I am not an "expert", I lived and am living the experience, I know what happened, and in my layman's opinion, Nancy suffers from Erotomania, and unfortunately for me, she had idolized me since before my employment with Purina (IE - Interview).

Kevin H. McKenna
4885 Adamsville Road
Zanesville, Ohio 43701
kmckenn@columbus.rr.com
(740)452-3124 - Home

The World of Erotomania

by AmyM. 7/28/05

She stares at the phone. She knows it will ring. How can he not call her? He will come in due course, when the timing is right. He may not be around now but she knows he must miss her terribly. What will the

world think when they are finally together? It won't matter, not really, as long as they are one. She dreams of the day of their union, the day of their wedding, the day the world takes notice of how special she really is. Oh the things she will buy, the people she will meet, the destiny fulfilled! The room around her is in disarray. She barely notices. One day she will leave this all behind. He will save her from the harshness of her daily life and bring her a new, more exciting existence. She believes in fate. Her computer monitor flickers behind her. She leaves it on all day waiting for a message from him to appear on her screen. She stares again at the phone, sitting idle among the books and papers upon her desk. It will ring, oh yes, it will ring!

This sounds like the timeless story of lovers ripped from each other and working towards a reunion doesn't it? Well, it's not. The woman above is an extremely troubled soul. We often grow up thinking everyone in the world thinks as we do. This is often the basis for misinformation and misunderstandings. The truth is, not all humans operate under the same rules of reality. Troubled people veer from the beaten path for a variety of reasons. Sometimes mental illness is inherited, other times it is brought on by life experience, and sometimes the cause is unknown. The Internet has brought into focus some of these disorders and they are probably lurking in a chat room or on a message board near you. Many of these disorders aren't new; they have simply found a new outlet. One type of disorder that has found a new home on the Internet is Erotomania. This disorder is also called Clerambault Syndrome.

What is Erotomania?

This disorder is a form of stalking. The erotomaniac will not stalk just anyone. They focus their attention on someone in high social or financial standing. Quite often the object of the erotomaniac's obsession is a celebrity. Erotomania can be described as an imaginary and obsessive romantic interest in a stranger. In most cases they have never even met the victim. Thoughts of the victim tend to fill the daily thoughts of the affected. This goes far beyond normal daydreams and fantasies. Their mind spends a lot of time fabricating a relationship in great detail that simply does not exist. This type of person will justify just about any behavior they find themselves acting out. They often believe their victim to be stuck in a loveless relationship and they need to be rescued. This is not just a fantasy to the erotomaniac; it is their reality.

Erotomania often occurs on message boards and in chat rooms that are hosted by celebrities. They may spend endless hours waiting for the celebrity to post a message. The erotomaniac believes that their intended is sending them secret messages through posts on these message boards or showing up in the chat rooms under assumed names just to get the chance to speak with them. They feel this is their link to the celebrity and they begin to center their life around it.

Belief System

A person suffering from erotomania lives by the belief that they and the object of their affection will

be united one day. There is no middle ground to this thought. They truly believe it will happen. Quite often the erotomaniac will see any rejection as interference by a different party. They cannot believe their victim is really rejecting them. There must be someone else manipulating and controlling the victim's life choices. This could be a wife, husband, sister, brother, friend or co-worker. In some cases the erotomaniac will take their frustrations out on the imagined manipulator. They see them as someone who is standing in the way of their ultimate happiness.

The erotomaniac also functions under the belief that they are saving their victim from a dull and loveless existence. They will use every opportunity to make their victim "see the light". They are often convinced that their victim is disconnected from their emotions and don't yet realize that they are in love.

Why?

What happens in a person's mind that makes them cross the line? What turns affection or admiration into obsession? Feelings of affection can turn into feelings of rage, frustration, and in extreme cases, violence. The erotomaniac has quite literally lost touch with reality and refuses to accept rejection. A person afflicted with erotomania will often exhibit signs of schizophrenia or borderline personality disorders. Most often they hide these symptoms well and tell no one of their obsession simply because they see nothing wrong with it. People with this disorder often feel unloved and extremely unhappy in their daily lives. They combat these feelings by inventing a

relationship with someone that they feel will give them the life they could have or feel they should have. They often feel the object of their affection is their perfect spiritual match or what would be considered the perfect and truest love.

What type of Person?

Some of the traits of an erotomaniac are easy to spot but can be easily dismissed as someone who is depressed or having a rough time. They are often irritable, impulsive, obsessive, paranoid and prone to psychotic episodes. Though this disorder is seen mostly in women there are plenty of men that are affected. A person with this disorder tends to be lonely and socially inept. They often feel that they are unattractive and they have poorly paying jobs. These people are quite often awkward in social situations but feel free and unrestricted through the Internet. Though erotomaniacs do not often become violent, it is usually the men that do so.

Signs and Symptoms

If someone is trying desperately to get the attention of their victim they will not give up. They will post message after message on a message board in hopes of getting a direct reply from the target. When the celebrity in question is a traveler, the erotomaniac will venture from their home to try to make contact. Repeated and sometimes exhaustive attempts are made by the erotomaniac to gain access to the victim. These shy and socially inept people suddenly find the courage to pester bus drivers, security guards, and

even hotel staff in an attempt to locate the celebrity in the flesh.

The victim may have symptoms too. They are not having symptoms of being an erotomaniac; they have symptoms of being the victim. Quite often the victim will feel depressed, anxious, fearful, and totally out of control of their life. They will also begin to feel vulnerable in the presence of their stalker if they are able to get near. Erotomaniacs do not respect the personal space of their intended. To them, love is totally and completely without any personal boundaries. They may even try to force themselves into sexual situations with the victim. Even in cases where the erotomaniac can get nowhere near them, the victim will live in fear that they will run into them just around the next corner.

How to Deal

The victim should follow their instincts and gut feelings. Somewhere in childhood we are taught to think with our heads instead of listening to our hearts or our instincts. If something feels incredibly wrong, the victim should acknowledge that feeling and be on guard. The victim can ask the person to stop pursuing them, however this should only be done one time. If the victim repeatedly contacts the stalker, they are giving them the attention they crave. The person can be banned from participation on a particular message board or chat room, but this often fails to deter them. They simply make up a new username and carry on until they are detected yet again.

Restraining orders rarely work but one should be sought if the victim feels that they, their friends or their family are in any sort of danger. Quite often these roadblocks are seen as manipulations by outsiders rather then a clear statement by the victim. Friends and family should be reminded to be wary of any strangers. The very best thing the victim can do to get rid of this type of stalker is to ignore them completely. The erotomaniac should not be acknowledged in any manner or form. The victim's best hope is that the stalker will eventually lose interest and move on with their lives.

From: Kevin McKenna
Sent: Wednesday, January 17, 2007 7:21 PM
To: Brian Dickerson
Cc: Jonathan R. Secrest
Subject: The _ _ _ _ _ _ doesn't fall very far from the tree....

Mr. Dickerson,

Are you aware that this is a formal Title VII proceeding? Are you aware that this proceeding is in regards to my complaint in a reasonable and good faith belief that I was unlawfully being discriminated against (sexually harassed) by Nancy Goss? Would you please explain to me why it is that both Maguire and Schneider and Dickerson Law, legal representaives of the Defendant Nestle Purina PetCare Co. are actively acquising, soliciting, condoning, and arguably orchestrating the (negative) testimony from the perpurtrator of the alleged (reasonable and good faith complaint) harassment, for testimony that could potentially negatively reflect upon the complaintant? Are you aware that you, as counsel for the defendant would not be caring out these said acts if it were not, but for the fact that I have formally opposed what I believe to be a reasonable and good faith belief that this practice to be unlawful, by bringing this case/suit (C2-05-976) against Nestle Purina PetCare Co.? Are you aware that Title VII expressly PROHIBITS an employer from discriminating against an employee (past, present or future) for opposing unlawful employment practices? Would you please explain to me why it is I should have to answer to these ALLEGATIONS by and from my harasser for no other reason other than

I have oposed the unlawful acts of Nancy Goss and Nestle Purina PetCare? Would you please explain to me why this email which is immediately appended below this response does not constitue harassment and/or retaliation against me for opposing unlawful employment practices?

Would you PLEASE explain why it is that I should have to tolerate this retaliatory harassment for no other reason, "but for" the fact I have formally opposed what I reasonably, and in good faith believe are unlawful employment practices? Would you PLEASE explain to me why it is I should not file suit for these acts as (further) retaliation by the Defendant?

This is EXACTLY the same sort of acts the Defendant had immediately intiated against me on the evening of August 31, 2004, for no other reason that asserting my guarnteed Civil Rights as afforded by Title VII on that same date. You Mr. Dickerson, as Attorneys for, and in legal representation for the Defendant in this C2-05-976 case, are initiating AGAIN, on January 13, 2007.

You have crossed the line between Defense and Prosecution, Swords instead of Shields. Defense Counsel CLEARLY crossed the line in the deposition of Nancy Goss. You cannot "hide" my opposition now/this time, it is on record in Federal Court.

What is it you people do not understand about, filing a complaint of employment discrimination does *NOT* mean its "open season" on the complainant??? Do tell me why it is I shouldnt take select portions of the transcript together with this email to the Court

Kevin H. McKenna
4885 Adamsville Road
Zanesville, Ohio 43701
kmckenn@columbus.rr.com
(740)452-3124 - Home

From: Brian Dickerson
Sent: Saturday, January 13, 2007 12:46 PM
To: Kevin McKenna
Cc: Jonathan R. Secrest
Subject: RE: Only one grain of sand on the entire beach...

Mr. McKenna:

Thank you for your email and the citations to the first and fourth circuit case law. With such confidence in your case, why dont we just take your deposition and see what explanations you have for Ms. Goss' testimony and your use of Company time and services to not only seek relationships with other woman, but men as well. Maybe there is an explanation that makes sense. I have not heard nor seen it yet.

Brian

From: Kevin McKenna
Sent: Saturday, January 20, 2007 1:04 AM
To: Julie L. Bryan
Cc: Jonathan R. Secrest; Brian Dickerson
Subject: RE: McKenna v. Nestle Purina Co. C2-05-976
Importance: High

To ALL,

I have on record, the log of my telephone call to Brian Dickerson of Dickerson Law on Saturday, January 18, 2007 @ 12:45AM to the effect of the appended email. I have informed Mr. Dickerson NOT to forward ANYHTING to Ms. Goss which represents opposition to her delusional perseptions of our "relationship". I have indicated to Mr. Dickerson by doing so that it is perceived by me to be a direct threat to my life and physical well being.

THIS IS NO GAME, WE ARE TALKING ABOUT MY GENUINE PERCEPTION TO THE RISK OF THE LOSS OF MY LIFE AND/OR HEALTH.

YOU WILL NOT FORWARD ANY CORRESPONDENCE WHICH COULD REPRESENT TO MS. GOSS MY OPPOSIOTON OF HER DELUSIONS.

ATTACHED IS A COPY OF THE OFFICIAL POLICE REPORT ON FILE WITH THE ZANESVILLE POLICE DEPARTMENT IN JULY OF 2004 WHERE I HAD EXPRESSED CONCERN OF MY LIFE AT THAT TIME (IE - "a body floating down the river").

Dickerson Law is hereby on notice that I will be doing all within my ability to gain a protective order against the defendant in this matter. If you are DETERMINED to follow thourgh on this act, make arrrangements to hear this matter with the Court on the morning of Monday, January 22, 2007.

This act is deened to be as much a THREAT to me and my life as sticking a loaded gun to my nose, it is completely intolerable.

CEASE THIS ACTION IMMEDIATELY!

I will be doing everything within my ability to see that the Court is on notice of these acts by email and/or telephone, this is an atorcity!

Kevin H. McKenna
4885 Adamsville Road
Zanesville, Ohio 43701
kmckenn@columbus.rr.com
(740)452-3124 - Home

-----Original Message-----
From: Kevin McKenna
Sent: Saturday, January 20, 2007 12:41 AM
To: Julie L. Bryan
Cc: Jonathan R. Secrest; Brian Dickerson
Subject: RE: McKenna v. Nestle Purina Co.
Importance: High

ABSOLUTELY DO NOT MAIL THE CONTENTS OF THIS TO NANCY J. GOSS.

By doing so, I will take you acts/actions as a direct threat to my life. As I have previously stated to you, I have never and would never CONFRONT Nancy J. Goss's DELUSIONS without FIRST beign fuly prepared to guard my life with my life.

YOU *DO NOT* SEND THIS WITHOUT FIRST, PRIOR COURT CONSENT.

YOU MUST IMMEDIATELY NOTIFY ME IF THIS HAS ALREADY BEEN SENT TO NANCY J.GOSS, AS I WILL THEN INITIATE EMERGENCY MEASURES WITH LOCAL LAW ENFORCEMENT.

Kevin H. McKenna
4885 Adamsville Road
Zanesville, Ohio 43701
kmckenn@columbus.rr.com
(740)452-3124 - Home

-----Original Message-----
From: Julie L. Bryan
Sent: Friday, January 19, 2007 4:22 PM
To: KMCKENN@columbus.rr.com
Cc: Jonathan R. Secrest; Brian Dickerson
Subject: McKenna v. Nestle Purina Co.

Mr. McKenna:

Attached for your review is a Notice to the Court we have filed today.

Please contact Mr. Jon Secrest or Mr. Brian Dickerson if you have any further questions.

Julie L. Bryan
Litigation Assistant
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SUPPLEMENTARY REPORT

DATE:	INC. #:
6/8/06	0601125

On 7/28/2004 I was dispatched to the front lobby of the police department where I spoke with one Kevin McKenna (address 4885 Adamsville Rd). McKenna stated that he was an employee of Benco Food Company, which is now Nestle Food on Main St. He stated that while at work, he was being, in his opinion, sexually harassed by a female employee there. McKenna stated that he thought that she had also followed him in a car after leaving work, had also witnessed her drive by his house where he lives. He stated that he tried to discourage it from the female of anything so as not to give her any reason to continue but she did not take the hint and desist. According to McKenna, he was in fear that the whole situation may become violent at some time.

He stated that he would just like to have note of it in case they did find his body, possibly floating in the river, the police would know who to go after. I informed McKenna that he needs to speak with his employer, Benco. I also advised him if the criteria fit for possible stalking, he could also possibly file

charges. I also advised him to also seek an attorney for a possible civil protection order. I informed McKenna that I did not know the terms for a civil protection order, but he needed to seek legal counsel to see if the attorney could possibly do something for his situation also.

McKenna stated that he did not wish to file any charges, he just wished to have the whole situation noted. I also informed McKenna that if he was in fear of his safety, to call the police, if he was within the city. I also spoke to him about having talked to a supervisor from the Times Recorder who I had spoke to who stated that he had a female employee that was being harassed by her soon-to-be ex-husband at work. He wished to have it noted or wished to have routines. He stated that he did not wish to make a report, she refused to make a report, but he thought the situation was serious enough that he would like to have routines at the Times Recorder. He also needed to know what the female employee could possibly do. I informed the supervisor that we would give routines and also possibly she should seek an attorney for a possible civil protection order. I also informed Mr. McKenna that the civil protection order criteria did fall underneath two people living together or being married, but as far as his situation, I was not clear as to the criteria for one in that situation, he again should also seek an attorney for any advice on how to proceed or have an attorney try to take care of the situation for him.

On 2/24/06 McKenna again came on station stating that he had been terminated by Benco Foods, that the situation had not stopped with the female that he

had worked with, and that a possible civil action was going to be taken. Any situation did arrive within the city where he was in fear of his safety of possible violence, to call the police department immediately. I also again advised Mr. McKenna that he may still wish to seek legal advice concerning the incident of any possible actions that could be taken. I informed Chief Lambes that a report would be made for Mr. McKenna concerning our conversation in 7/04 and also in 2/06.

Investigating Officer McIntyre

Report by Officer McIntyre

bjj